

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Nadine Gazzola, individually, and as co-owner, President, and as
BATFE Federal Firearms Licensee Responsible Person for Zero
Tolerance Manufacturing, Inc., et al.;

Plaintiffs,

-against-

KATHLEEN HOCHUL, in her official capacity as Governor of the
State of New York; STEVEN A. NIGRELLI, in his Official
Capacity as the Acting Superintendent of the New York State
Police; ROSSANA ROSADO, in her Official Capacity as the
Commissioner of the Department of Criminal Justice Services of
the New York State Police; and LETITIA JAMES, in her official
capacity as Attorney General of the State of New York.

Defendants.

**ATTORNEY
DECLARATION**
1:22-cv-1134
(BKS/DJS)

Aimee Cowan, pursuant to § 1746 of Title 28 of the United States Code, declares the
following to be true and correct under penalty of perjury under the laws of the United States of
America:

1. I am an Assistant Attorney General for the State of New York and appear in this
action on behalf of KATHLEEN HOCHUL, in her official capacity as Governor of the State of
New York; STEVEN A. NIGRELLI, in his Official Capacity as the (former) Acting
Superintendent of the New York State Police; ROSSANA ROSADO, in her Official Capacity as
the Commissioner of the Department of Criminal Justice Services of the New York State Police;
and LETITIA JAMES, in her official capacity as Attorney General of the State of New York
("Defendants"), in this action.

2. I make this Declaration in support of Defendants' motion to dismiss for lack of
subject matter jurisdiction and lack of standing pursuant to Fed. R. Civ. P. 12(b)(1) and for
Defendants' motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12 (c).

RELVANT FACTUAL AND PROCEDURAL HISTORY

3. On November 1, 2022, Plaintiffs filed their Complaint for the instant matter. (ECF No. 1). On November 8, 2022, Plaintiffs filed a motion seeking a preliminary injunction and/or temporary restraining order. (ECF No. 13). Defendants responded to Plaintiffs' motion (ECF No. 29), Plaintiffs filed a reply (ECF No. 33) and the Court held an evidentiary hearing on December 1, 2022. This Court ultimately denied Plaintiffs' motion. (ECF No. 42). Plaintiffs appealed the decision to the Second Circuit, and the Second Circuit affirmed this Court's decision on December 8, 2023. *See Gazzola v. Hochul*, 88 F.4th 186 (2d Cir. 2023).

4. Defendants answered Plaintiffs' Complaint on March 21, 2024 (ECF No. 79). Rule 26 Disclosures have been exchanged by the parties. While the parties exchanged discovery demands on October 4, 2024, they have not engaged in any further discovery. *See* ECF No. 101. Defendants now move to dismiss Plaintiffs' Complaint in its entirety pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction and lack of standing and pursuant to Fed. R. Civ. P. 12(c) for judgment on the pleadings.

5. The following documents are referenced in the accompanying Defendants' Memorandum of Law.

a. A copy of the New York Department of State, Division of Corporations entity information details for Plaintiffs Nadine Gazzola and Seth Gazzola's business, Plaintiff Zero Tolerance Manufacturing, Inc., is attached as **Exhibit "A."**

b. A copy of the New York Department of State, Division of Corporations entity information details for Plaintiff Jim Ingerick's business, Plaintiff Ingerick's LLC, is attached as **Exhibit "B."**

c. A copy of the New York Department of State, Division of Corporations entity

information details for Plaintiff Craig Serafini’s business, Plaintiff Upstate Guns and Ammo, LLC, is attached as **Exhibit “C.”**

d. A copy of the New York Department of State, Division of Corporations entity information details for Plaintiff Nick Affronti’s business, Plaintiff East Side Traders, LLC, is attached as **Exhibit “D.”**

e. A copy of the New York Department of State, Division of Corporations entity information details for Plaintiff Empire State Arms Collectors Association, Inc. is attached as **Exhibit “E”¹.**

Dated: October 25, 2024
Syracuse, New York

/s/ Aimee Cowan
Aimee Cowan, Esq.
Assistant Attorney General

¹ Exhibits A through E are subject to judicial notice. *See Williams v. PMA Cos., Inc.*, 419 F. Supp. 3d 471, 484 (N.D.N.Y. 2019) (noticing corporate filings with Secretaries of State and declaring that “[c]ourts routinely take judicial notice of such government records.”).